

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

GABRIEL ALCALA ANGUIANO,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 17-00214-CV-W-ODS
)	
ERNEST OBASI,)	
)	
Defendant.)	

ORDER REMANDING MATTER TO STATE COURT

On March 23, 2017, Defendant filed a Notice of Removal from the Circuit Court of Jackson County with this Court, asserting diversity of citizenship as the basis for subject matter jurisdiction. Doc. #1. Plaintiff is a Kansas resident, and Defendant is a Missouri resident. *Id.* Section 1441(b)(2) articulates the “forum defendant rule” and provides an action “may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” A “violation of the forum defendant rule is a jurisdictional defect and ‘not a mere procedural irregularity capable of being waived.’” *Horton v. Conklin*, 431 F.3d 602, 605 (8th Cir. 2005) (citing *Hurt v. Dow Chemical Company*, 963 F.2d 1142, 1146 (8th Cir. 1992)).

On March 24, 2017, the Court ordered Defendant to show cause why this matter should not be remanded for lack of jurisdiction. Doc. #6. Defendant has not responded and the time for doing so has passed. Pursuant to section 1441(b)(2), this matter is not removable. Accordingly, the Court remands this matter to the Circuit Court of Jackson County, Missouri.

IT IS SO ORDERED.

DATE: April 13, 2017

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT